

In the Final Office Action, the Examiner admits that Maurer does not disclose or teach a timer “for measuring at least one predetermined time period” as recited by claims 1, 18, and 21, which are the independent claims of the present application. Rather, the Examiner suggests “the timer of Maurer is capable of performing the stated function.” But even assuming Maurer theoretically could, or would be modified as suggested by the Examiner, it would completely defeat the purpose for which Maurer was conceived and developed. In particular, the timer disclosed in Maurer (to the extent any timer is disclosed) is designed to measure the flight duration of an object. See, for example, Maurer at title, abstract, and various other references in the specification. The duration of flight depends on factors including, for example, the weight of the object, the aerodynamics of the object, the wind resistance, the force and acceleration of the object, the trajectory of the object, the gradient of the ground over which the object is throw, and the like. The duration of flight is based on a number of non-related factors resulting in a counter than must count an indeterminate time period or a non-predetermined amount of time. Thus, if Maurer were modified to count a predetermined amount of time (and the Examiner has shown no motivation or reason for one of ordinary skill in the art to do so), the invention disclosed in Maurer would no longer function because the duration of flight and the measured time would no longer have any correlation. Thus, the applicants respectfully suggest that modifying the timer of Maurer to count a predetermined amount of time would destroy the intended function of Maurer. Thus, Maurer does not render the present invention obvious. See *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Further, neither Willner et al. nor Bennett cure the defect of Maurer as neither disclose or teach any counter or timer. Thus, the applicants respectfully submit that the references of Maurer, Willner et al., and Bennett do not anticipate or render obvious claims 1-21 of the present invention either alone or in any reasonable combination thereof. Therefore, the applications request the Examiner withdraw the rejection and allow the pending claims.

While the applicants believe the above is sufficient to prove the present claims are allowable over the references, the Examiner in the May 7, 2003 Final Office Action failed to address a second reason why the combination of Maurer and Willner et al. does not disclose or suggest the present invention. In particular, claim 1, as amended in the January 14, 2003 Amendment, recites a combination of elements including, for example, "the at least one sound generator for producing at least one sound based on the at least one predetermined time period," which is neither disclosed nor suggested by the cited references. In particular, Willner et al. at most discloses a sound generator that produces a sound based on an accelerator and not based on the time period at all. Even if the sound generator of Willner et al. was incorporated into the ball of Maurer, there is no disclosure capable of coordinating the sound generator of Willner et al. with the time of flight measurement of Maurer much less produce a sound generator that is based on a predetermined time period counted by a timer. At most, modifying the Maurer device with the sound generator of Willner et al. would produce an object that measured time of flight and produced sound based on acceleration and/or deceleration of the object. Conversely, the present invention produces "at least one sound based on the at least one predetermined time period." Thus, for this additional reason, amended claim 1 is patentably distinct from Maurer and Willner et al. either alone or in any reasonable combination thereof.

Finally, the Examiner believes Bennett is within the same field of the present invention because they both relate to flying objects. However, the field and problem associated with Bennett is the location of an object after it has landed in an undesired space. Conversely, the field and problem addressed by the present invention is the turning on of a timer when an object comes within a predetermined distance from a target. The applicants respectfully submit that the field and problems are sufficiently different to render the combination of Bennett with Maurer and/or Willner et al. in proper.

Even if the Examiner maintains Bennett to be properly combinable with Maurer and Willner et al. the Bennett reference does not cure the defects associated with Maurer and Willner et al. noted above. Thus, the applicants respectfully submit that the present invention is allowable over the references either alone or in any reasonable combination thereof.

For at least all the above reasons, the applicants respectfully request the Examiner withdraw the pending rejection and allow claims 1-21.

The applicants respectfully requests that the Examiner to consider this Request for Reconsideration After Final Office Action Under 37 C.F.R. § 1.116. The applicants submit that claims 1-21 are presently in condition for allowance and that no new matter has been introduced by this response. The applicants believe that the proposed response does not raise new issues or necessitate the undertaking of any additional search of art by the Examiner, because all of the elements were either earlier claimed or inherent in the claim as examined. Therefore, the amendment should allow for immediate action by the Examiner. Alternatively, the Applicant believes that entry of the response would place the application in better form for appeal, should the Examiner dispute the patentability of the claims.

If an extension of time under 35 C.F.R. § 1.136 is required to obtain entry of this Amendment, such an extension is requested. If there are fees due under 37 U.S.C. §§ 1.16 or 1.17 which are not otherwise accounted for, please charge our Deposit Account No. 08-2623.

Respectfully submitted this 16 day of May 2003.



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